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SUBJECT: MALAWI: INFORMATION ON CHILD LABOR AND FORCED LABOR

REF: 09 SECSTATE 131997

Post provides the following information in response to reftel request. Answers are keyed to reftel tasking.

Tasking 1/TVPRA

¶1. (Reftel 1A) The current TVPRA list shows two goods, Tobacco and Tea, as goods produced in Malawi using forced labor and /or exploitive child labor. In 2009 Post has not found evidence to support the inclusion of additional goods on the TVPRA list.

¶2. (Reftel 1F) The GoM has drafted a National Child Labor Policy (2009). This reflects a commitment by the GoM to work toward the elimination of child labor in a systematic way. It provides a coherent framework and direction for the various actors, programs and projects in the field of child labor. The policy aims to make Malawi a child labor free country, where children under the age of 14 years are protected from labor exploitation and those between ages of 15-18 years are protected from hazardous environments affecting their health, morals, physical and social development. The policy consists of several complementary measures including a legal action plan, general development programs and specific community projects. The draft policy paper has been submitted to the Cabinet for approval.

¶3. A draft National Action Plan (NAP) (2009-2016) has been prepared to provide the Government, social partners, civil society, and all other stakeholders with a framework to translate policy pronouncements into concrete activities, and to ensure effective coordination of programs. The NAP builds upon the draft Child Labor Policy and contributes to the overall objectives of the Malawi Growth and Development Strategy (MGDS), Malawi's primary development planning framework document. Currently the GoM, through the Ministry of Labor, is mainstreaming child labor into all sectors of the successor development strategy to ensure consistency and relevance. The development of a comprehensive NAP on child labor provides a much needed priority and operational framework for action on child labor in Malawi.

Tasking 2/TDA

¶4. (Reftel 2A) Prevalence and Sectoral Distribution of

Exploitive Child Labor:

¶1. Child labor is most often detected in the agriculture sector, which employs the vast majority of all labor in Malawi. Child labor is also reported in domestic work, as well as commercial activities such as vending.

¶2. The GoM does not collect nor maintain a database on child labor. The GoM relies on periodic child labor surveys and child labor inspection reports from district offices. No child labor surveys were conducted during the reporting period. Some office reports are available on inspections.

¶5. (Reftel 2B) Laws and Regulations:

¶1. Draft Tenancy Bill (2009): The GoM has now completed a draft Tenancy Bill that seeks to provide for the regulation of labor tenancy. The Bill clarifies the rights and obligations of landlords and tenants with a view to avoid exploitative situations. The Bill also seeks specifically to protect the rights of children at risk of engaging in child labor through the tenancy system. The Bill will provide a policy framework to regulate employment in the

agricultural sector. The Bill includes provisions covering contracts between landlords and tenants. Clause 10 provides that only persons who are above 18 years of age may be tenants. Once enacted, the Bill will provide protection for children and young people currently vulnerable to exploitation due to lack of such legal instruments. The Tenancy Bill is expected to be tabled in Parliament in 2010.

¶2. Malawi's legal and regulatory framework is generally adequate to address exploitive child labor. Although the laws provide for a range of penalties, in practice violations are almost always addressed with fines that are inadequate to deter violations. Enforcement of child labor and forced labor laws is weak. Labor inspectors lack enforcement capabilities and must cooperate with police to pursue violations. Enforcement agencies lack resources to aggressively enforce labor laws.

¶6. (Reftel 2C) Institutions and Mechanism for Enforcement: Malawi does not have institutional framework for separating its work on different categories of child labor. The GoM states that in 2009 it did not identify any cases meeting its definition of forced child labor.

2C, Section I: Hazardous Child Labor

¶1. Enforcement of hazardous child labor laws is the responsibility of the Police, Judiciary, Immigration Department, Ministry of Labor, and the Ministry of Gender and Child Development, with support from the Malawi Child Labor Network, Trade Unions, Employers and Civil Society Organizations.

¶2. The Malawi Child Labor Network comprises government and NGOs, employers, worker's organization and civil organizations. It has been instrumental in the reduction of child labor. This Network spearheaded the formulation of the Code of Conduct on Child Labor, the Draft policy on Child Labor and the Draft National Action on Child Labor. The Network has linked other civil society

organizations in accessing resources targeting the elimination of child labor. The Government has put in place District Child Protection Committees to coordinate all child protection activities at the district level. This organized effort to address child labor has so far been very effective.

¶3. There is no standard mechanism for reporting hazardous child labor complaints. All districts have child labor protection committee that have often sounded the first warning when children are noted working in hazardous conditions. Inspection visits constitute another principle means for reporting complaints on site. Workers have also reported such malpractices directly to the district labor offices.

¶4. Malawi has a dedicated Child Labor Unit in the Ministry of Labor that has a specific budget allocation for child labor activities - USD 205,000 was allocated to the unit for the 2009/10 budget. District labor offices are now fully devolved to district assemblies and get direct funding from the Treasury. On average, monthly funding levels are between USD 5,479 and USD 6,849 depending on the size of the district. Although improved from previous years, funding remains inadequate. Most inspectors use motorcycles. Office space is generally available but barely adequate.

¶5. As of December 2010, there were 160 labor inspectors in the Ministry of Labor. Additional inspectors are needed but cannot be supported with the existing budget.

¶6. About 2,645 labor inspections were carried out in 2009. Standard labor inspection forms have been revised to capture child labor information. Special forms have also been designed to collect comprehensive child labor information by child labor monitors who have been deployed in rural areas. In collaboration with the Ministry of Gender, Child Development and Community Services, 800 Social Protection Officers have been recruited and trained to monitor child protection issues including child labor. In order to sustain continuous surveillance of child labor, communities have been empowered to undertake continuous child labor monitoring in their localities. Data is not available on the breakdown of complaint-driven versus random inspections. These inspections were not sufficient to provide adequate enforcement or deterrence.

¶7. From January - October 2009, the Ministry of Labor withdrew 1,435 children (1,067 boys and 368 girls) from labor and provided them with alternatives. Since 2005, the International Labor Organization/International Program for the Elimination of Child Labor (ILO/IPEC) Malawi Programme has withdrawn 3,046 and prevented 5,574 children from child labor activities. These children have been placed in schools and provided with learning materials. Between 2005 and 2009, 1,110 vulnerable families have accessed economic support under the program and 57 children were repatriated to their districts of origin. A project funded by the Elimination of Child Labor in Tobacco (ECLT) in Kasungu and Dowa districts has for the past three years withdrawn 1,788 children (1,073 boys, 715 girls). A project funded by Humanist Institute for Development Cooperation (HIVOS) in Mchinji and Kasungu districts removed children in livestock herding. Withdrawn children are provided with psychosocial counseling by different stakeholders and they are monitored by the District Social Welfare to make sure that they do not engage in any further child labor.

¶8. The GoM opened 67 child labor cases in 2009.

¶9. All 67 child labor cases were resolved through prosecutions in 2009.

¶10. All 67 were convicted and fined.

¶11. Prosecution processes lasted , on average, three weeks on each case.

¶12. Sentences fell within the range of penalties established by law. Fines ranged from USD 68 to 137. No custodial sentences were given by the courts.

¶13. The record demonstrates a GoM commitment to combating hazardous child labor. The deterrent impact of its efforts, however, is limited by the light fines applied to convicted offenders.

¶14. The GoM, through the ILO/IPEC, conducted two training sessions for 50 investigators and other enforcement officers. Post has not been able to confirm if this training explicitly covered hazardous child labor. The Ministry of Labor is still evaluating the impact of this training.

2C Section II: Forced Child Labor

¶1. Enforcement of forced child labor laws is the responsibility of the Police, Judiciary, Immigration Department, Ministry of Labor, and the Ministry of Gender and Child Development, with support from the Malawi Child Labor Network, Trade Unions, Employers and Civil Society Organizations.

¶2. The Malawi Child Labor Network comprises government and NGOs, employers, worker's organization and civil organizations. It has been instrumental in the reduction of child labor. This Network spearheaded the formulation of the Code of Conduct on Child Labor, the Draft policy on Child Labor and the Draft National Action on Child Labor. The Network has linked other civil society organizations in accessing resources targeting the elimination of child labor. The Government has put in place District Child Protection Committees to coordinate all child protection activities at the district level. This organized effort to address child labor has so far been very effective.

¶3. There is no standard mechanism for reporting forced child labor complaints. All districts have child labor protection committees that have often sounded the first warning when children are noted working under forced conditions. Inspection visits constitute another principle means for reporting complaints on site. Workers have also reported such malpractices directly to the district labor offices.

¶4. Malawi has a dedicated Child Labor Unit in the Ministry of Labor that has a specific budget allocation for child labor activities. USD 205,000 was allocated to the unit for the 2009/10 budget. District labor offices are now fully devolved to district assemblies and get direct funding from the Treasury. On average, monthly funding levels are between USD 5,479 and USD 6,849 depending on the size of the district. Although improved from

previous years, funding remains inadequate. Most inspectors use motorcycles. Office space is available and barely adequate.

¶5. As of December 2010, there were 160 labor inspectors in the Ministry of Labor. Additional inspectors are needed but cannot be supported with the existing budget.

¶6. About 2,645 labor inspections were carried out in 2009. Standard labor inspection forms have been revised to capture child labor information. Special forms have also been designed to collect comprehensive child labor information by child labor monitors who have been deployed in rural areas. In collaboration with the Ministry of Gender, Child Development and Community Services, 800 Social Protection Officers have been recruited and trained to monitor child protection issues including child labor. In order to sustain continuous surveillance of child labor, communities have been empowered to undertake continuous child labor monitoring in their localities. Data is not available on the breakdown of complaint-driven versus random inspections. These inspections were not sufficient to provide adequate enforcement or deterrence.

¶7. The GoM does not acknowledge any cases of forced child labor in 2009. Although labor inspections led to the removal of large numbers of children from child labor situations, none of these were officially classified as forced child labor. Lack of case information makes it impossible to independently assess if any of these situations might have met reftel standard for forced child labor.

¶8. There were no forced child labor cases opened in 2009.

¶9. No forced child labor cases were closed in 2009.

¶10. Not applicable.

¶11. Not applicable.

¶12. Not applicable.

¶13. The GoM has demonstrates a commitment to combating child labor in general. Forced child labor is included in this commitment, but it is unclear if training is sufficient to identify instances of forced labor.

¶14. GoM through the ILO/IPEC conducted two training sessions for 50 investigators and other enforcement officers. Post has not been able to confirm if this training explicitly covered forced child labor. The Ministry of Labor is still evaluating the impact of this training.

¶17. (Reftel 2D) Institutional Mechanisms for Effective Enforcement:

¶1. Malawi has several agencies dedicated to enforcement of child trafficking. These include the Ministry of Gender, Children and Community Development, Ministry of Justice (courts), Police, Ministry of Labor, Ministry of Local Government and Rural Development, and several non-governmental organizations. The number of officers employed by the GoM involved with enforcement of child trafficking is estimated at over 400. In addition, the government has engaged 800 child protection workers.

¶2. It was not possible to get funding figures dedicated to child trafficking for all the agencies. However, Ministry of Gender, Children and Community Development, the lead agency on child trafficking, received about USD 2.1 million. Overall funding remains inadequate. Cooperation and resources from other stakeholders helped the GoM undertake a number of programs. Office facilities, transport and fuel were adequate for investigators to do their job.

¶3. The Ministry of Gender, Children and Community Development, has with support from partners, established a child helpline with NGOs, although it was not exclusively dedicated to child trafficking cases. The facility is new and statistics are not yet available for its use.

¶4. There was no reliable data kept on the number of child trafficking investigations conducted.

¶5. Since 2005, over 150 cases of child abuse have been reported.

¶6. Since 2005, 150 cases of child abuse have been prosecuted.

¶7. All 150 cases are resolved.

¶8. There is no recorded statistic about convictions apart from three cases that resulted in custodial sentences.

¶9. Sentences imposed matched specified legal framework.

¶10. All custodial sentences were served.

¶11. Cases took three to six months to be resolved.

¶12. Training courses were conducted for primary school teachers on guidance, counseling and child protection. A sensitization program for Members of Parliament was conducted on the proposed Child Bill. No evaluation has been done on the likely impact of these training programs.

¶13. Malawi did not experience any armed conflict.

¶1. Malawi has several agencies responsible for enforcement of laws covering the commercial sexual exploitation of children (CSEC). These include the Ministry of Gender, Children and Community Development, Ministry of Justice (courts), Police, Ministry of Labor, Ministry of Local Government and Rural Development, and several non-governmental organizations. The number of officers employed by the GoM involved with enforcement of child trafficking is estimated at over 400. In addition, the government has engaged 800 child protection workers.

¶2. It was not possible to get funding figures dedicated to CSEC issues for all the agencies. However, Ministry of Gender, Children and Community Development, the lead agency on CSEC, received about USD 2.1 million. Overall funding remains inadequate. Cooperation and resources from other stakeholders helped the GoM undertake a number of programs. Office facilities, transport and fuel were adequate for investigators to do their job.

¶3. The Ministry of Gender, Children and Community Development, has with support from partners, established a child helpline with NGOs, although it was not exclusively dedicated to CSEC cases. The facility is new and statistics are not yet available for its use.

¶4. There was no reliable data kept on the number of CSEC investigations conducted.

¶5. Since 2005, over 150 cases of child abuse have been reported.

¶6. Since 2005, 150 cases of child abuse have been prosecuted.

¶7. All 150 cases are resolved.

¶8. There is no recorded statistic about convictions apart from three cases that resulted in custodial sentences.

¶9. Sentences imposed matched specified legal framework

¶10. All custodial sentences were served.

¶11. Cases took three to six months to be resolved.

¶12. Training courses were conducted for primary school teachers on guidance, counseling and child protection. A sensitization program for Members of Parliament was conducted on the proposed Child Bill. No evaluation has been done on the likely impact of these training programs.

¶13. Malawi did not experience any armed conflict.

2D, Section III: Use of Children in Illicit Activities:

¶1. Malawi has several agencies responsible for enforcement of laws covering the use of children in illicit activities. These include the Ministry of Gender, Children and Community Development, Ministry of Justice (courts), Police, Ministry of Labor, Ministry of Local Government and Rural Development, and several non-governmental organizations. The number of officers employed by the GoM involved with enforcement of child trafficking is estimated at over 400. In addition, the government has engaged 800 child protection workers.

¶2. It was not possible to get funding figures dedicated to the use of children in illicit activities for all the agencies. However, Ministry of Gender, Children and Community Development, the lead agency on the use of children in illicit activities, received about USD 2.1 million. Overall funding remains inadequate. Cooperation and resources from other stakeholders helped the GoM undertake a number of programs. Office facilities, transport and fuel were adequate for investigators to do their job.

¶3. The Ministry of Gender, Children and Community Development, with support from partners, established a child helpline with NGOs, although it was not exclusively dedicated to the use of children in illicit activities. The facility is new and statistics are not yet available for its use.

¶4. There was no reliable data kept on the number of investigations conducted on the use of children in illicit activities.

¶5. Since 2005, over 150 cases of child abuse have been reported.

¶6. Since 2005, 150 cases of child abuse have been prosecuted.

¶7. All 150 cases are resolved.

¶8. There is no recorded statistic about convictions apart from three cases that resulted in custodial sentences.

¶9. Sentences imposed matched specified legal framework

¶10. All custodial sentences were served.

¶11. Cases took three to six months to be resolved

¶12. Training courses were conducted for primary school teachers on guidance, counseling and child protection. A sensitization program for Members of Parliament was conducted on the proposed Child Bill. No evaluation has been done on the likely impact of these training programs.

¶13. Malawi did not experience any armed conflict.

¶18. (Reftel 2E) Government Policies on Child Labor:

¶1. The GoM has drafted a National Child Labor Policy (2009). This reflects a commitment by the GoM to work toward the elimination of child labor in a systematic way. It provides a coherent framework and direction for the various actors, programs and projects in the field of child labor. The policy aims to make Malawi a child labor free country, where children under the age of 14 years are protected from labor exploitation and those between ages of 15-18 years are protected from hazardous environments affecting their health, morals, physical and social development. The policy consists of several complementary measures including a legal action plan, general development programs and specific community projects. The draft policy paper has been submitted to the Cabinet for approval.

¶2. A draft National Action Plan (NAP) (2009-2016) has been prepared to provide the Government, social partners, the civil society and all other stakeholders with a framework to translate policy pronouncements into concrete activities, and to ensure effective coordination of programs. The NAP builds upon the draft Child Labor Policy and contributes to the overall objectives of the Malawi Growth and Development Strategy (MGDS), Malawi's primary development planning framework document. Currently the GoM, through the Ministry of Labor, is mainstreaming child labor into all sectors of the successor development strategy to ensure consistency and relevance. The development of a comprehensive NAP on child labor provides a much needed priority and operational framework for action on child labor in Malawi.

¶3. The Cabinet has not yet approved the National Child Labor Policy or National Action Plan. The GoM provided funding for preparation of these plans.

¶4. The GoM provided manpower and facilities toward preparation of the policy and plan of action.

¶5. There is now a concerted effort among stakeholders at national and local levels to collaborate and coordinate efforts on child protection. A wide range of stakeholders are active on these issues, working on legal enforcement, awareness, environment, education, social mobilization, health, water and sanitation. Active stakeholders include the Police Services Victim Support Unit, Ministry of Labor, Ministry of Gender, Children and Community Development, Ministry of Local Government, Ministry of Justice, Ministry of Health, Ministry of Agriculture (Livestock and Crops), Malawi Human Rights Commission, Law Commission, Malawi Economic Justice Network, Malawi Human Rights Consultative Committee, UN Agencies, Malawi phone service providers, Civil Society Coalition for Quality Basic Education, Malawi Congress of Trade Unions, Employers Consultative Association of Malawi, Centre for Youth and Children Affairs (CEYCA), Active Youth and Social Enhancement (AYISE), Target Nation Relief in Development (TANARD), Plan Malawi, Every Child, Eye of the Child, Malawi Human Rights Youth Network (MHRYN), Youth Watch Society, Creative Centre for Community Mobilization (CRECCOM), Youth Net and Counseling (YONECO), World Vision, Care International and others.

¶6. There were no commissions nor task forces during the reporting period.

¶17. The GoM did not sign any new bilateral, regional, nor

international agreement to combat trafficking in 2009.

¶9. (Reftel 2F) Social Programs to Eliminate or Prevent Child Labor:

¶1. The GoM, with support from USDOL, ILO/IPEC others, continues to implement programs to eliminate child labor in Malawi. A three-year child labor elimination program will begin in 2010 to succeed the USG supported "Elimination of Child Labor Project" (2005-2008). With support from partners, the GoM has implemented intervention programs to improve pupil retention in schools, such as the development of hostels, feeding shelters and school blocks. The GoM also continued a major awareness campaign, intensified labor inspections, and held child labor Open Days in all districts of the country.

¶2. The GoM has facilitated the establishment of
a) four Child Friendly Courts,
b) Community Victim Support Units at Traditional Authority level in seven selected districts, and
c) one Child Stop Centre.

The GoM has also created a budget expenditure under the Ministry of Labor line specifically for child labor programs.

¶3. The GoM provided about USD 205,000 to the Ministry of Labor, about USD 2.1 million to Ministry of Gender, Children and Community Development, and other unspecified amounts to agencies such as Police, judiciary and Local Government.

¶4. The GoM mounted an awareness campaign against child labor, and provided manpower and facilitation for the preparation of child labor policies and action plans.

¶5. The GoM's overall efforts to serve children at risk through provision of resources, personnel and services is commendable but more work remains to be done if Malawi is to eliminate child labor.

¶6. No new agreement has been signed for the reporting period, ¶2009. However, the GoM is a signatory to the International Labor Conventions: C29 and C105 (Forced Labor); C138 (Minimum age); C182 (Worst Forms of Child Labor); and C81 (Labor Inspection). Other relevant international treaties include the Palermo Protocol and the Southern African Development Community (SADC) Charter. The GoM has demonstrated strong commitment to deal with child labor and any forms of child abuse. This commitment has helped Malawi to put in place mechanisms at national as well as local level that aim to prevent and/or eliminate any forms of child exploitation.

¶10. (Reftel 2G) Continual Progress:

The GoM has made commendable progress on building an institutional framework, increasing public and civil awareness, and gathering support for a concerted drive to eliminate child exploitation of any type. There is demonstrated support from all partners, local and foreign, as well as the political will to combat all ills affecting the children of Malawi. Notable progress in 2009 includes GoM efforts to strengthen the policy and legal environment to enhance the drive to eliminate child labor.

